

REMARKS

In accordance with the foregoing, claims 1, 6, 17, and 20 have been amended, and claims 3, 19, and 21 have been cancelled without prejudice or disclaimer.

Claims 1, 2, 6, 7, 9, 10, 12-18, 20, and 22 are pending and under consideration. No new matter is presented in this Amendment.

REJECTIONS UNDER DOUBLE PATENTING:

On page 2 of the Office Action, the Examiner provisionally rejects claims 1-3, 6, 7, 9, 10 and 12-22 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over selected claims of copending U.S. Patent Application No. 10/806,107. While it is believed that the rejection is premature since U.S. Patent Application No. 10/806,107 has not yet been issued as a patent, and since claims 1, 2, 7, 9, 10, 12-16 and 18-22 of the instant application have not yet been indicated as allowable, in view of the previously filed Terminal Disclaimer, it is respectfully requested that the Examiner reconsider and withdraw the rejection.

REJECTIONS UNDER 35 U.S.C. §112:

On page 3 of the Office Action, the Examiner rejects claims 18 and 22 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The rejection is traversed and reconsideration is respectfully requested.

While it is respectfully submitted that the claims as previously presented were compliant with 35 U.S.C. §112, first paragraph, claims 18 and 22 were previously amended to be more consistent with the non-limiting examples used in the specification as noted by the Examiner on page 3. As such and consistent with the Examiner's indication of allowance for claim 22 in the Advisory Action, it is respectfully requested that the Examiner reconsider and withdraw the rejection.

REJECTIONS UNDER 35 U.S.C. §102:

On pages 4-5 of the Office Action, the Examiner rejects claims 19 and 21 under 35 U.S.C. §102(e) in view of Ichihara (U.S. Patent No. 6,396,792). The rejection is respectfully traversed and reconsideration is respectfully requested.

As a point of clarification, claims 19 and 21 have been cancelled without prejudice or disclaimer. As such, it is respectfully submitted that the rejection is deemed moot.

REJECTIONS UNDER 35 U.S.C. §103:

On pages 5-8 of the Office Action, the Examiner rejects claims 1, 2, 9, 10 and 12-16 under 35 U.S.C. §103(a) in view of Ohno et al. (U.S. Patent No. 5,150,351) and Ichihara. The rejection is respectfully traversed and reconsideration is respectfully requested.

While applicants do not necessarily agree with the Examiner's construction, claim 1 has been amended consistent with previously presented claim 3, which the Examiner indicated in the Advisory Action contains allowable subject matter. As such, it is respectfully submitted that claim 1 distinguishes over Ohno et al.

Claims 2, 9, 10, and 12-16 are deemed patentable due at least to their depending from claim 1.

On page 8 of the Office Action, the Examiner rejects claim 7 under 35 U.S.C. §103(a) in view of Ohno et al., Ichihara, and Clark et al. (U.S. Patent 5,802,031). The rejection is respectfully traversed and reconsideration is requested.

Even assuming arguendo that the Examiner's characterization of Clark et al. is correct, the Examiner does not rely upon Clark et al. as curing the above-noted deficiency of the combination of Ohno et al. and Ichihara as applied to claim of claim 1, from which claim 7 depends. As such, it is respectfully submitted that the combination does not suggest the features of claim 7.

On pages 8-10 of the Office Action, the Examiner rejects claim 20 under 35 U.S.C. §103(a) in view of Ohno et al. and Furumiya et al. (U.S. Patent 5,490,126). The rejection is respectfully traversed and reconsideration is requested.

While applicants do not necessarily agree with the Examiner's construction, claim 20 has been amended consistent with previously presented claim 3, which the Examiner indicated in the Advisory Action contains allowable subject matter. As such, it is respectfully submitted that claim 20 distinguishes over the combination Ohno et al. and Furumiya et al.

ALLOWABLE SUBJECT MATTER:

In the Advisory Action, the Examiner indicates that claims 20 and 22 are allowable, and objects to claims 3, 6, and 17. Claim 3 has been cancelled without prejudice or disclaimer, and incorporated into claim 1, and claims 6 and 17 have been made independent without narrowing the scope of the claims.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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